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**From:** Paula Maccabee [pmaccabee@justchangelaw.com]  
**Sent:** 11/10/2015 6:11:11 PM  
**To:** Wester, Barbara [wester.barbara@epa.gov]  
**CC:** Kenney, Thomas [kenney.thomas@epa.gov]; Sedlacek, Michael [Sedlacek.Michael@epa.gov]  
**Subject:** Re: Following up on PolyMet Questions

Hi Barbara,

Thank you for your email.

I am not really requesting collaboration with EPA on either the PolyMet FEIS or Section 404 issues. I am just seeking assistance in identifying the persons at EPA Region 5 and at EPA Headquarters who are involved with review of PolyMet water quality, wetlands and Section 401(a)(2) processes. I believe that any member of the public, whether from industry or the environmental community, should be entitled to assistance in understanding which individuals at the EPA have particular expertise and are responsible for a particular set of questions or matters.

In addition to having the right to make official comments to Co-Lead Agencies in NEPA proceedings, citizens have the right to petition government agencies, particularly when that petition is within the scope of the agency's responsibility. WaterLegacy does not waive any rights to engage in official comment processes as a result of providing additional information at various times to Co-Lead and Cooperating agencies.

I hope that this clarification of the limited scope of my request will allow you to identify the individuals who have the roles and expertise identified in my original email.

Thank you for your assistance.

Sincerely yours,

Paula Maccabee, Esq.  
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Advocacy Director/Counsel for WaterLegacy

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**From:** Barbara Wester <[wester.barbara@epa.gov](mailto:wester.barbara@epa.gov)>  
**Date:** Tuesday, November 10, 2015 at 11:07 AM  
**To:** Paula Maccabee <[pmaccabee@justchangelaw.com](mailto:pmaccabee@justchangelaw.com)>  
**Cc:** "Kenney, Thomas" <[kenney.thomas@epa.gov](mailto:kenney.thomas@epa.gov)>, Mike Sedlacek <[sedlacek.michael@epa.gov](mailto:sedlacek.michael@epa.gov)>  
**Subject:** RE: Following up on PolyMet Questions

hi paula – i'm responding to your message below.

you should feel free to email any comments that you may wish to share for the agency's consideration to myself, tom kenney (of ORC), and mike sedlacek (of our NEPA program). thank you for the information you have provided in the past as well.

as you know, EPA currently is conducting its review of the polymet FEIS in accordance with its statutory review responsibilities and will be formulating its response to the document during the public comment period for it. i urge you, as others have done, to provide your comments directly to the lead agencies so that they may address them through their public comment process. ultimately, those agencies have the responsibility for making the final NEPA decision for this project.

in exercising its independent review responsibilities under NEPA, it would not be appropriate for EPA to engage in the type of stakeholder collaboration that your message appears to suggest we develop. i apologise if we somehow failed to clarify this sufficiently in the past. again, we encourage you to utilize the public comment process as provided for by the lead agencies.

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**From:** Paula Maccabee [<mailto:pmaccabee@justchangelaw.com>]  
**Sent:** Wednesday, November 04, 2015 10:09 PM  
**To:** Wester, Barbara <[wester.barbara@epa.gov](mailto:wester.barbara@epa.gov)>  
**Subject:** Following up on PolyMet Questions

Barbara,

This email follows up our phone conversation last week in which I asked who at EPA would be addressing various issues related to the PolyMet Final EIS and the EPA's responsibilities under the Clean Water Act, Section 404(c) and implementing regulations.

With respect to the issue of FEIS adequacy, will water division staff review issues related to the predictions of water quality compliance, such as assumptions regarding collection of seepage, the characterization or failure to characterize contaminants, and the prediction of what water chemistry would be but for the proposed project?

With respect to Section 404(c), there are a range of different issues that may call for different areas of expertise. Who is reviewing questions related to wetlands impacts and compensatory mitigation? Who is reviewing issues related to downstream water quality? In particular, to whom should I address information pertaining to methylmercury impacts? Who is reviewing alternatives that could mitigate impacts on wetlands and water quality? Finally, who has taken the lead in developing procedures for exercise of Section 401(a)(2), as described in the article I published last spring in the *William Mitchell Law Review*?

With respect to the above issues, are there staff at EPA Headquarters who are also participating in this review?

As I complete sections of our comments and obtain draft reports from experts, it would be helpful for me to know to whom I could send these materials and with whom I might be able to confer to communicate what we believe are priority issues.

Thank you for your help in making this process more intelligible.

Best regards,  
Paula

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